

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 1999-06**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-021-99**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

**For Filing Administrative  
Regulations**

For Emergency  
Regulations Only

Effective Date

Expiration Date

Governor's Signature

**State Environmental Commission**

Classification ☐ Proposed ☐ Adopted By Agency ☒ Temporary ☐ Emergency ☐

**Brief description of action:** **Petition 1999-06 (R-021-99)** permanently amends NAC 444.8901, 444.8906, 445A.347 and 459.9729 by removing the Division of Emergency Management in the Nevada Department of Motor Vehicles & Public Safety from the list of agencies required to be notified of spills and releases pursuant to Nevada's water pollution control regulations. The intent of this regulation is to provide for regulatory relief regarding the disclosure of spills and releases. Other emergency reporting requirements are not affected by this amendment.

**Authority citation other than 233B:** NRS 459.485

**Notice date:** March 10, March 16 and March 25, 1999 and August 10, August 18 and August 26, 1999

**Hearing date:** April 9, 1999 (Temporary) and September 9, 1999 (Permanent)

**Date of Adoption of Agency:** April 9, 1999 (Temporary) and September 9, 1999 (Permanent)

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PERMANENT PETITION 1999-06 (R-021-99)  
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 444, 445A and 459. This permanent regulation deals with amendments to the water pollution control, consultant certification and hazardous waste programs.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

**Petition 1999-06 (R-021-99)**, was noticed three (3) times: March 10, March 16 and March 25, 1999 as a temporary regulation and August 10, 18 and 26, 1999 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. Regulatory workshops were held on March 29, 1999 in Las Vegas, March 31, 1999 in Elko and April 2, 1999 in Carson City. The temporary regulation was adopted on April 9, 1999 and as a permanent regulation on September 9, 1999 by the State Environmental Commission. No oral testimony was received regarding this regulation during temporary or permanent adoption. One written comments was received from the Office of Emergency Management (Exhibit 9 of the April 9, 1999 hearing) at the public hearing during adoption of the temporary regulation. The comment requested that the Environmental Commission remove the Office of Emergency Management from the regulations for spill reporting. No public comment was received during adoption of the permanent regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**2. The number persons who:**

- |            |  |           |
|------------|--|-----------|
| <b>(a)</b> | <b>Attended each hearing;</b>                    | <b>30</b> |
| <b>(b)</b> | <b>Testified at each hearing:</b>                | <b>1</b>  |
| <b>(c)</b> | <b>Submitted to the agency written comments:</b> | <b>0</b>  |

**3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices. No oral testimony was received that opposed or supported the regulation during temporary and permanent adoption. No written testimony was received from businesses on this regulation during temporary and permanent adoption. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted by the State Environmental Commission on September 9, 1999 with no amendment proposed for the regulation.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

The permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The adopted regulation should make it easier for affected businesses to comply by simplifying the requirements for reporting spills. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The regulations are no more stringent than federal regulations.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

There will be no additional fees, nor will there be an increase in fees associated with this regulation.

**END OF FILING STATEMENT FOR 1999-06 (R-021-99)**

# ADOPTED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

## LCB File No. R021-99

EXPLANATION - Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§ 1-4, NRS 459.485.

**Section 1.** NAC 444.8901 is hereby amended to read as follows:

444.8901 In addition to the requirements of NAC 444.8896 a person, center, point for aggregation or facility that is governed by provisions of NAC 444.8911 to 444.8931, inclusive, 444.8936 to 444.8986, inclusive, *or* 444.8991 to 444.9046, inclusive, shall, not more than 24 hours after a release, report the release by telephone pursuant to the requirements for reporting set forth in 40 C.F.R. Part 302, as that part existed on October 3, 1996, to:

1. The National Response Center, in accordance with 40 C.F.R. Part 302, as that part existed on October 3, 1996, at (800) 424-8802 or (202) 462-2675; *and*

2. ~~[The division of emergency management of the department of motor vehicles and public safety at (702) 687-4240 during normal working hours or at (702) 687-5300 after normal working hours; and~~

~~3.]~~ The director of the *state* department *of conservation and natural resources* at (800) 992-0900 extension 4670, or ~~[(702)](775)~~ 687-4670.

**Sec. 2.** NAC 444.8906 is hereby amended to read as follows:

444.8906 If used antifreeze is released into a body of water in this state, a person, center, point for aggregation or facility that is governed by the provisions of NAC 444.8911 to 444.8931, inclusive, 444.8936 to 444.8986, inclusive, *or* 444.8991 to

444.9046, inclusive, shall, not more than 24 hours after a release, report the release by telephone to:

~~1. The division of emergency management of the department of motor vehicles and public safety at (702) 687-4240 during normal working hours or at (702) 687-5300 after normal working hours; and~~

~~2. The~~the director of the *state* department *of conservation and natural resources* at (800) 992-0900 extension 4670, or ~~[(702)](775)~~ 687-4670.

**Sec. 3.** NAC 445A.347 is hereby amended to read as follows:

445A.347 1. Any person who owns or operates a facility or his designated agent shall notify the:

~~-(a) Division of emergency management of the department of motor vehicles and public safety as soon as possible after he has knowledge of a release described in subsection 2 that involves his facility. The notice must be by telephone at (775) 687-4240 during normal working hours or at (775) 687-5300 after normal working hours.~~

~~-(b) Director]~~ *director* as soon as possible after he has knowledge of ~~[such a release,]~~ *a release described in subsection 2 that involves his facility*, but not later than the end of the first working day after the release. The notice must be by telephone at 800-992-0900, extension 4670 or **(775)** 687-4670.

2. The following are subject to the notice requirements of subsection 1:

(a) A release in a quantity equal to or greater than that which is required to be reported to the National Response

Center pursuant to 40 C.F.R. Part 302.

(b) A release consisting of any quantity of pollutants, hazardous waste, as defined in NRS 459.430, or contaminants, as defined in NRS 445A.325, and the pollutant, hazardous waste or contaminant is not listed in 40 C.F.R. § 302.4.

(c) A release consisting of a petroleum product:

(1) Which is released to the soil or other surfaces of land in a quantity greater than 25 gallons; or

(2) Discovered on or in the ground water or in at least 3 cubic yards of soil during excavation of soil, subsurface exploration, monitoring of ground water or any other subsurface activity.

**Sec. 4.** NAC 459.9729 is hereby amended to read as follows:

459.9729 1. Each holder of a certificate issued by the division pursuant to the provisions of NAC 459.970 to 459.9729, inclusive:

(a) Shall provide services which are ethical, meet the current standards of the profession and which comply with federal, state and local regulations concerning hazardous substances or underground storage tanks.

(b) Is responsible for the work of other persons he employs or supervises.

(c) Shall have a copy of his certificate at the location where he is supervising work. Upon the request of the division, client or potential client, a holder of a certificate shall present his certificate for inspection.

(d) Shall make a written report to the facility owner or operator, within 24 hours, upon the discovery of a release of a hazardous substance or the existence of an unregistered underground storage tank and advise that facility owner or operator of any applicable reporting requirements.

(e) Shall report to the division ~~and to the division of emergency management of the department of motor vehicles and public safety~~ the discovery of a release of a hazardous substance which presents an imminent and substantial hazard to human health, public safety or the environment as soon as possible after he has knowledge of a release.

(f) Shall secure the services of a qualified person to perform any part of his job which requires a level or service or skill which he is not qualified to provide.

(g) Shall make complete prior disclosures to his clients or potential clients of potential conflicts of interest or other circumstances which could influence his judgment or the quality of the services he provides.

(h) Shall not falsify or misrepresent his education or experience, the degree of responsibility for prior assignments or the complexity of prior employment or business, relevant factors concerning employers, employees, associates or joint ventures or past accomplishments.

(I) Shall maintain a written record of each project requiring certification for 3 years after the project is completed. The division may inspect those records during normal business hours and will establish requirements concerning the information which must be included in the records.

2. Certification may be suspended, revoked or denied for renewal if the division determines that the certificate holder has not performed in accordance with these standards.

END OF PETITION 1999-06